

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOSETTE TURCHIO,

Plaintiff,

Index No.: 13 CV 2664

(Matsumoto, J.; Reyes, M.J.)

-against-

THE CITY OF NEW YORK,

(filed via ECF)

Defendant.

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THE CITY OF NEW YORK,

Index No.: 13 CV 2664

(Matsumoto, J.; Reyes, M.J.)

Third-Party Plaintiff,

**THIRD-PARTY
COMPLAINT**

- against -

VINCENT TURCHIO,

(filed via ECF)

Third-Party Defendant.

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Defendant and Third-party Plaintiff, THE CITY OF NEW YORK, by and through their undersigned attorneys, files this its Third-Party Complaint, complaining of VINCENT TURCHIO, Third-party Defendant, and for causes of action respectfully alleges as follows:

A. PARTIES

1. The third party plaintiff, The City of New York, is a Municipal corporation, existing by virtue of the laws of New York State.

2. The third party defendant, VINCENT TURCHIO, is a resident of the City and State of New York.

B. JURISDICTION

3. The original, underlying action has been brought pursuant to 28 U.S.C. § 1333 on grounds of Admiralty and General Maritime Jurisdiction. This Court has supplemental jurisdiction over these third-party claims, pursuant to 28 U.S.C. § 1367, because they “form part of the same case or controversy.”

C. FACTS

4. Plaintiff sued defendant for personal injuries arising out of a boating accident that allegedly occurred in Jamaica Bay. (*See* Docket No. 5, Plaintiff’s Amended Complaint).

5. Defendant answered Plaintiff’s complaint. (*See* Docket No. 6, Answer to Amended Complaint).

6. At the time and place of the accident, the boat involved in the alleged accident is alleged by plaintiff to have been owned and operated by her husband, third-party defendant, VINCENT TURCHIO.

7. Upon information and belief the alleged boat accident was the result of the negligence of third-party defendant, VINCENT TURCHIO, in operating the boat alleged by plaintiff to be owned and operated by third-party defendant, VINCENT TURCHIO.

D. FIRST CAUSE OF ACTION

8. Third-party defendant, VINCENT TURCHIO, was negligent in his ownership, operation and control of the boat and/or vessel in question.

9. Said negligence was the proximate cause of plaintiff's injuries.

10. If the plaintiff was caused to sustain the damages at the time and place as alleged in the complaint through any negligence or want of due care other than the negligence or want of due care on the part of the plaintiff, then said damages were sustained by reason of the negligence and want of due care, by acts of commission or omission on the part of third party defendant, VINCENT TURCHIO, and if any judgment is recovered herein by the plaintiff against the third party plaintiff, then the third party plaintiff will be damaged thereby and third party defendant, VINCENT TURCHIO, will be responsible therefor in whole or in part.

11. That by reason of the foregoing, VINCENT TURCHIO, will be liable to the third party plaintiff in the full amount of a recovery herein by the plaintiff, or, for that proportion thereof caused by the relative responsibility of the third party defendant, VINCENT TURCHIO, and for all costs and expenses, no part of which has been paid to the third party plaintiff.

E. PRAYER FOR RELIEF

WHEREFORE, third party plaintiff demands judgment over and against third party defendant, VINCENT TURCHIO, for all, or to the extent that the responsibility of third party defendant, VINCENT TURCHIO, contributed thereto, for that portion of any verdict or judgment which may be obtained herein by the plaintiff against third party plaintiff, plus all costs and expenses of this action.

Dated: New York, New York
July 24, 2013

MICHAEL A. CARDOZO
Corporation Counsel
Attorney for Defendant and
Third Party Plaintiff

By: _____/s/_____
ALEXANDER E. BARNETT (AB7292)
Special Assistant Corporation Counsel

To: Jason L. Paris
Paris & Chaikin
14 Penn Plaza -- Suite 2202
New York, NY 10006
Counsel for Plaintiff

Jacob Shisha
Tabak, Mellusi & Shisha LLP
29 Broadway, Suite 2311
New York, NY 10006

Counsel for Third-Party Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 24, 2013, a copy of the foregoing THIRD-PARTY COMPLAINT was served via the Court's electronic filing system to:

Jason L. Paris
Paris & Chaikin
14 Penn Plaza -- Suite 2202
New York, NY 10006

Counsel for Plaintiff

And via first class mail, postage prepaid to

Tabak, Mellusi & Shisha LLP
29 Broadway, Suite 2311
New York, NY 10006

Counsel for Third-Party Defendant

Dated: New York, New York
July 24, 2013

_____/s/_____
ALEXANDER E. BARNETT